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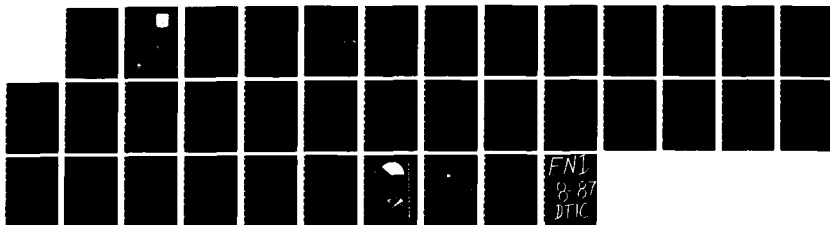
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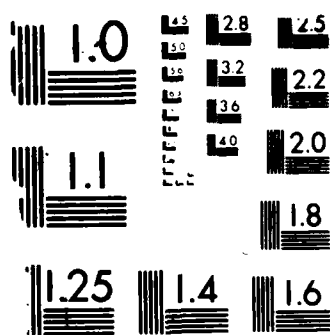
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UNION DIRECTIONS - ARMY RESPONSE

BY

MR. JAMES M. ALWARD

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US ARMY WAR COLLEGE, CARLISLE BARRACKS, PENNSYLVANIA

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ABSTRACT

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Labor organizations representing Federal employees, including nearly 227,000 Department of the Army civilians, are in a critical period of their development. When the Federal sector labor-management relations program achieved a statutory base in 1979, the unions had visions of a significantly increased scope of bargaining and an enlarged role in the bilateral relationship. These visions have not been realized, however, and now the unions are decidedly pessimistic about their ability to affect improvement in the employees' lot. This pessimism can manifest itself in a number of directions, some of which the Department of the Army can influence to the good. Other union directions, e.g., legislative initiatives, will be far less susceptible to Army actions. Research was accomplished through an examination of the current literature, personal discussions with union and management leaders in the labor relations field, a review of the case law, and a working knowledge of union and agency initiatives. The Department should anticipate likely union directions in the labor relations program and respond in a pro-active fashion. Our response should continue to be based on the underlying strategy of an affirmative willingness to bargain collectively with the unions.

SPECIAL TABLES

TABLE 1 - Union Recognition in the Department of the Army

(Lists the 28 unions which represent Army civilian employees, the number of employees each represents, the number of bargaining units, and the number of collective bargaining agreement)

TABLE 2 - Union Representation in the Army

(Graphically demonstrates union representation data)

TABLE 3 - ULP Complaints

(Compares Army's experience with unfair labor practice complaints with the other six large agencies)

TABLE 4 - Disputed Proposals Thru FY 85

(Depicts the disposition of union proposals alleged by Army activities to be nonnegotiable)

UNION DIRECTIONS - ARMY RESPONSE

If past is prologue, consider the Army's philosophy with respect to the management-employee relationship in 1955 - a full seven years before there was any requirement to deal with labor unions:

Experience within the Army Establishment tends to show that the constructive benefits of group opinion and group thinking are more fully realized when management officials take the initiative in consulting with representatives of such authorized groups as exist¹

Today, the Federal labor-management relations program requires that activities negotiate with exclusively recognized labor organizations regarding personnel policies and practices and matters affecting working conditions.² Further, unions that represent a substantial number of agency employees enjoy national consultation rights with Executive Branch agencies in the development or revision of policies or regulations that change conditions of employment.³ Current Army policy states that there will be "an affirmative willingness to bargain collectively with labor organizations," while retaining the essential right to manage.⁴ (See Tables 1 and 2)

The operative phrase in this policy is "affirmative willingness." It is a deliberate phrasing which reflects the long-held belief in the Army that employee participation in decisions that affect their worklife is healthy and desirable. Although some union locals could point to a particular commander's or civilian personnel officer's lack of enthusiasm for bilateral dealings, all in all, the Army is conceded to be a reasonable agency in the field of labor relations. At the same time, the Army has never adopted the principle of "co-management"; in fact, it is recognized

as one of the more vigilant agencies in protecting the rights of management to manage, of commanders to command. This policy is not likely to change any time soon; it has served the agency, and the employees, well. In the near term, however, the Army is likely to have to consider modifying certain approaches to the labor-management relationship, both at the headquarters and field level, as a result of expected changes in union strategies and tactics.

A legitimate question that could be raised is why should the agency change, why should we have to respond to union initiatives. Actually, our overall objectives will not change; we simply maintain a flexible posture with respect to the manner in which we achieve those objectives.

In labor relations, it is the agency that acts and the union that reacts. We decide what the mission will be, what tasks will be accomplished by whom, what the budget will be, what the organization will look like, and so forth; it also makes critical personnel decisions such as hiring, firing, promoting, contracting out, and disciplining.⁵ Employees and their unions are free to react to these decisions if they believe that the agency has acted in a capricious or unfair manner. These "reactions" are commonly expressed as grievances filed under the negotiated grievance procedure or as unfair labor practice (ULP) charges. (See Table 2) In most cases, such ventings of displeasure are resolved through a studied and dispassionate adjudicatory process conducted by an impartial third party: i.e., an arbitrator for grievances, the Federal Labor Relations Authority for ULP charges. In actual practice, of course, it frequently appears that we as management spend most of our time reacting to union initiatives --

the grievances, ULP charges and demands to bargain. In our frustration with having to deal with issues that appear to be of little consequence in the larger scheme of things, we should not lose sight of who really is in the lead. We are -- and, given any reasonable near or mid-term change in the Federal labor relations scenario, will continue to be.

UNION GOALS

Responsible union leaders, at the national level and locally, accept this and are willing to work within these constraints. Not surprisingly, however, they are actively attempting to expand the scope of the Federal sector program and, thus, increase the power of Federal unions and the ability of the Federal employee to affect his work life. The possible union directions are varied, but all point to a continuing evolution far removed from the early days of a grudging recognition of the right of Federal workers to organize.⁶

Similar goals are envisioned by most, if not all, unions that represent Federal employees. In a recent address to senior Army civilian and military managers, a representative of the National Federation of Federal Employees (NFFE) noted that the four salient features of the Federal labor relations program which distinguished it from the private sector are the limited scope of bargaining (most importantly, no wage and fringe benefit bargaining), the no strike provision in the labor relations statute (and the Criminal Code), no agency shop, and the abundance of statutory management rights.⁷

A few years earlier, a like position was taken by the then-director of the Public Employees Department, AFL-CIO:

The status quo in collective bargaining will never prove fully satisfactory to union members. To think otherwise would thwart a basic human need. The evolution of labor relations to date tells those who will heed that the longer-range union goals -- the right to job action [i.e., strike], union security [i.e., an agency shop or equivalent], expansion of bargaining rights, each in its own form and time -- will become a reality, even though the task may be spread through future decades.

Three critical areas of union concern will be briefly examined: the right to strike; union security; and the scope of bargaining. For each concern, an assessment of the Army's interests will be discussed.

The Right to Strike

Most important in labor union ideology is the right not to work, the right to strike, the ultimate weapon in the arsenal of union power.[Emphasis in original]

Federal employees are prohibited from striking or taking part in any job action; e.g., a work slowdown, "work to rules," or sick out. Unions are prohibited from calling strikes and must take positive, aggressive action to defuse a wildcat job action by the employees.¹⁰ An outspoken advocate of a greatly expanded scope of bargaining, one official of the American Federation of Government Employees (AFGE) has stated:

. . . AFGE firmly believes that the current system will not bring collective bargaining to federal workers. If ever there was a demonstration of why compulsory arbitration in lieu of the strike does not work, you need only look to the federal sector. My words are 'to hell with the system.' It is time the federal workers looked to new and innovative ways to drive bargaining. We are now hearing rumblings from our members, and I predict that in the not-too-far-distant future, the Federal Labor Relations program will be faced with the age-old solution to bring about needed change -- civil disobedience and dissent.¹¹

It is interesting to note that these remarks were delivered a few months before the air traffic controllers strike in August, 1981, which resulted in the firing of some 11,500 controllers, the decertification of the Professional Air Traffic Controllers Organization (PATCO), and the fining and jailing of a number of employees who were strike leaders.

A certain degree of militancy -- or, at least, strong dislike for the current state of affairs in the program -- continues to be expressed by AFGE leaders. We must pay some heed to these feelings if for no other reason than the fact that AFGE represents 58% (132,355) of Army's organized workforce and 55% (728,439) government-wide.¹² More to the point, however, this attitude is not often expressed at the Army activity level. (Any claim that local union officials are intimidated and therefore reluctant to speak their mind would be wholly unpersuasive to the typical commander or civilian personnel officer.) Simply, there is no serious claim these days that civilian employees of the Department of the Army, or any other Federal agency, see the strike as useful or necessary tool.

There is no question that the ill-fated PATCO adventure doomed the possibility of strikes being permitted in the Federal sector for the foreseeable future. Neither the public nor the Congress is likely to accept strikes as a legitimate economic weapon in the government. (As Peter Drucker has noted, "No strike has ever been won unless public opinion accepts the union's cause as deserving, if not justified."¹³) This belief is almost universally shared by observers of the Federal labor relations scene -- management, union and neutral alike. A management example:

The PATCO episode raises the question of our commitment to a strike-free collective bargaining system in the Federal service, true to the design of the system itself and the public's right to government services and operations which are not disrupted by disputes between employees and management.¹⁴

A union example:

The PATCO strike became the first warning the President issued to labor and particularly to Federal unions that militancy of this nature would not be tolerated. The right to strike for Federal employees is a complex and controversial issue. Any hope that the unions had of achieving this right through legislative action was negated through the President's act of firing the PATCO controllers.¹⁵

A neutral example:

It is difficult to assess the general effect of the PATCO strike, except to note its undoubted effect on other unions' propensity to initiate a strike in the federal sector. . . ., the PATCO strike was a decided setback for organized labor in government employment -- unionism's major, if not only, growing sector. It also marks a defeat in organized labor's long-term and still basically unsuccessful attempt to organize the salaried and service sectors. Finally, the Reagan administration's handling of the dispute probably stiffened government bargaining at the municipal and state levels but to what extent cannot be quantified. . . . Rarely has such an amateurish performance by a union been displayed so publicly or dealt with so decisively.¹⁶

In sum, the essential issue of the right to strike in the Federal sector is not a matter of concern for the Department of the Army.

Union Security

Union security entails the union's establishment of economic strength and stability by means of a union or agency shop. A union shop would require that every employee in the bargaining unit belong to the union, that is, be a dues-paying member of the union. In an agency shop, a

bargaining unit employee would either have to be a dues-paying member of the union or pay an equivalent "representation fee." These are common in both the private and public sectors.¹⁷ In the Federal sector, however, such forms of union security are prohibited. Only a dues checkoff procedure is available. This permits employees who chose to be union members to have their dues automatically deducted from their paycheck and forwarded to the union.

In its first negotiability decision under the new labor relations statute, the Federal Labor Relations Authority found that a proposal for an agency shop arrangement was nonnegotiable.¹⁸ Although the Statute does not expressly preclude an agency shop, the intent of Congress is clear in the legislative history that such arrangements are not permitted. A basic employee right in the Statute is "to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. . . ."(Emphasis added)¹⁹ Since that decision, issued in June 1979, the unions have made no attempt either through court review, new cases or apparent legislative initiatives to change the Federal sector concept of free and open union membership. This is not an easy issue to give up on; it is an emotional sticking point to many unionists who abhor the idea of what are called "free loaders:"

Union members have a very strong antipathy for 'free-loaders,' employees who share equally in the gains achieved by union negotiation but do not join the union. This feeling is often coupled with the sense of insecurity that may go with small majorities: fear of weakness at the bargaining table or of possible action by the employer to seek a decertification election.²⁰

It is unrealistic, therefore, to expect that the unions have given up on this issue. There has undoubtedly been lobbying efforts in this

direction. The Federal labor relations statute is now seven years old and there has been no significant change to it. Also important is the fact that there has been little effort made by either the agencies or the unions to affect change (and most of that effort has been made by the agencies, primarily the Department of Defense). The unions could probably gain support for some form of union security in the important House Committee on Post Office and Civil Service which was the principal architect of the statute. If a bill were introduced to establish an agency shop arrangement in the Federal sector, the Department of the Army would be asked its views.

At first blush, our response appears obvious: the Army would oppose an amendment that would, in effect, make employees "join the union" (or pay an equivalent representation fee) to work for the government. A different perspective on the issue, however, could result in a different response.

The nature of the Army labor relations program is one of decentralization: each commander having personnel management authority under AR 10-20 has the authority to negotiate and execute a collective bargaining agreement with the local union.²¹ Over the years, this has proven to be an excellent way to run the Army's program since it gives each commander the ability to shape his or her own agreement to respond to the unique requirements of each activity. (There are 589 separate bargaining units throughout the Army; most of these are covered by an agreement.²²) One of the plagues of the Army labor relations program, which is shared by the Navy and Air Force as well, is that many of these local bargaining units are weak and ineffective. A frequently heard complaint among Army commanders is that the local union does not represent the interests of the

vast majority of the employees in the unit; that it exists only to serve a small vocal minority which now has a bona fide public forum to express its discontent. This is a very legitimate complaint and frustratingly difficult to remedy.

It is relatively easy in the Federal sector for a union to gain exclusive recognition for a group of unorganized employees. (It is relatively unheard of for a union to be ousted except by a "raiding" rival union taking the incumbent's place.) Most of the existing Army locals were established in the late '60s and early '70s. The belief is often expressed by commanders that if the employees had to vote for or against union representation today, there would be far fewer locals around. The fact is that Federal employees have little to lose by voting in a union. They are not required to pay dues or any other fees; the unions cannot discriminate against non-members but must represent the interests of all bargaining unit employees equally.²³ Although all unit employees are covered by the terms and conditions of the agreement and must, for example, use the negotiated grievance procedure for nearly all complaints, they need not bear any other allegiance to the union. But, what if the employees had a tangible stake in whether they were represented by a union or not? What if the 226,774 Army civilians now unionized were given another chance to vote for union representation with the stipulation that if they voted for the union there would be an agency shop?

The result would most likely be a drastic reduction in the number of bargaining units throughout the Army, but those union locals still around would be quite active and well-supported by the employees. This is not

necessarily a bad thing. Drucker, who readily admits to not being pro-union, states:

To believe that labor-union weakness means management strength is sheer self-delusion. One may deplore unionization . . . , but once there is a union -- and unionization is a fact in all developed noncommunist countries -- a weak union, that is, one without established role, function, and authority and without strong, secure, and effective leadership, means strife, demagoguery, irresponsible demands, and increasing bitterness and tension. It does not mean management strength; it means management frustration.²⁴

Another perspective is noted by labor economist Robert J. Samuelson:

There are those who will applaud labor's decline. They are wrong. In our pluralistic society, checks and balances are as important for the economy as for the government. Business executives who salivate at the thought of vanishing unions are almost certainly shortsighted. Without effective unions, widespread worker grievances ultimately may lead to inflexible responses - rigid court decisions and bureaucratic regulations.²⁵

Commanders who have had to deal with weak unions and union leaders with a narrow (and narrowly focused) constituency will fully appreciate the point made by both Drucker and Samuelson: it's better to deal with an effective and responsible employee representative. If a union security arrangement is established by Congress, it will undoubtedly require the recertification of existing bargaining units. (Without this quid pro quo, such an amendment would never pass.) Only those union locals who have gained the confidence of the majority of the bargaining unit employees could hope to survive the recertification process. A vocal minority of malcontents will not be enough to carry the day. Commanders would then be assured of dealing with a union that truly represents the employees' interests; this is an enviable situation.

Scope of Bargaining

Compared to the private and public sectors, the scope of bargaining in the Federal sector is very limited.²⁶ We cannot negotiate on those matters provided for by law. This proscribes bargaining, except in rare instances, on such standard issues as pay and fringe benefits: e.g., basic salary, overtime rates, health insurance, retirement plans, leave, etc. We cannot negotiate contract provisions in conflict with government-wide regulations or, with less restriction, agency regulations. We cannot negotiate away our retained management rights. This is frustrating to the unions who sometimes feel that all they can bargain about is whether the coffee break will be ten minutes or fifteen. Anyone reviewing a Federal agreement, running over 100 pages and covering virtually every personnel issue and working condition, would recognize that this simply isn't so. To the extent that the local activity commander has discretion, the scope of bargaining is wide open. Of course, this is necessarily limited; but, the unions are no less limited in fashioning local conditions of employment than is management. We are both circumscribed by the nature of the Federal government as the employer.

While most managers and commanders would prefer less in the way of regulatory restriction as well, the unions are much more effected by the program's scope of bargaining. One observer of Federal labor relations pointedly relates the issue of strikes to this limited scope:

Perhaps the most persuasive account of the relative lack of militancy among federal unions is that they have precious little to bargain over. Strikes are most useful as a source of leverage and pressure in negotiations and as an alternative if bargaining fails. Labor relations in the federal government have developed into

a system in which political action has outweighed negotiation as a means of achieving desired ends, thus making the strike an inappropriate weapon for federal employees. . . . Even today, most federal union leaders remain lobbyists, not bargainers.

Disputes over what is bargainable are resolved by the Federal Labor Relations Authority in its decisions on negotiability. Most of these disputes (75-80% estimated) center on the issue of management rights, section 7106 of the Statute, rather than on personnel laws or regulations. Union proposals are nonnegotiable if they conflict with or unduly interfere with the exercise of these rights. As noted earlier, the Army is recognized as a strong management rights advocate. Since the labor relations statute became effective in January 1979 through FY 85, there were 598 disputed proposals in the Army; that is, union proposals that the management negotiators had alleged to be nonnegotiable. Only 63 of these (10.5%) were determined to be negotiable by the Authority; another 28 (4.7%) were conceded to be negotiable by HQDA. The rest were either ruled nonnegotiable or dismissed for various reasons by the Authority.²⁸ (See Table 3) The record supports the contention that Army negotiators are not afraid to bargain -- but will bargain only to the extent that the law permits. We insist on protecting our essential right to manage.

The changes in the Federal labor relations program since President Kennedy's executive order in 1962 have been evolutionary -- and have been progressive. We should expect more of the same. Although it is unlikely that such issues as pay and fringe benefits will be established at the local bargaining table, the unions are likely to gain more input through the national consultative process concerning these matters. Further, it is inevitable that the scope of bargaining will broaden; more issues will be

more open to local bilateral determination. Agency regulations will be written to permit wider discretion on the part of activity managers to manage. This, in turn, will allow more to be bargained locally. We should regulate selectively. As an Army labor relations expert stated:

The rules of the game being what they are, it will be absolutely necessary that we attempt to impose agency-wide uniformity only where it is really important to the Army that we do so. Even where we believe that a given procedure or policy is preferable to the available alternatives, we should not attempt to impose it Army-wide unless the consequences of not doing so are severe. Implementing any discretionary Department-wide civilian personnel policy will be difficult. We must limit ourselves to be big issues.

While diligently arguing for a continuing ability to manage, we should be willing to open up the bargaining process to both a wider range of issues and to a more detailed delving into the issues. The program is moving, slowly, in this direction and the Department of the Army need not fear a more sophisticated bilateral relationship.

LABOR-MANAGEMENT COOPERATION

Labor-management cooperation, as distinct from the collective bargaining process, takes various shapes and goes by various names, but its core is the same -- greater employee participation in the decision-making process. It can exist with or without a union. In West Germany and Scandinavia, it is called "codetermination" and was developed to suit the particular style of European labor relations.

Unionization in Europe generally exists on a centralized or nationalized basis. While work councils exist at local levels, real union power exists on a national basis only. The result has been a generally weak union presence on the enterprise level. Codetermination

helps fill this gap by providing enterprise-level participation.³⁰

In Japan, quality circles are used extensively in the largest companies, fitting in to the "cornerstone of the Japanese corporate system . . . lifetime employment."³¹ It is consensus decision-making, a process which accommodates the collectivist attitude in Japan. The question is, of course: are such concepts viable in the United States generally and, more specifically, within the Federal government?

There is wide-spread disagreement concerning the suitability of German or Japanese-style labor-management relations for the American private sector. Despite the presence of the United Auto Workers' president on the Chrysler Corporation's board of directors,

The idea of direct participation by labor representatives in corporate management has not been well received by either American management or labor. It has been rejected by managers concerned with their loss of control and by many union leaders who fear losing bargaining effectiveness through shared responsibility. Glenn E. Watts, president of the Communications Workers of America, put the union position succinctly: 'I don't want to sit on the board and be responsible for managing the business. I want to be free as a unionist to criticize management.'³²

If the private sector's "bottom line" is economic and increased productivity is a necessary by-product of the labor system, then quality circles/codetermination might not be the answer:

The hope, expressed or implied, was that encouraging employees to participate in decisions that affect their day-to-day work patterns would lead to an increase in their productivity. . . . Despite all the claims surrounding the establishment of these programs, there is little persuasive evidence that changes in the work environment improve productivity.

To workers, greater productivity may represent a threat to jobs. Conversely, management sees improving

productivity as a process of gaining from labor greater flexibility in job assignment, production standards, crew sizes, and other elements over which labor has gained control.

This last comment is especially interesting because the "gains in flexibility" so desired by management in the private sector have already been achieved by Federal managers by virtue of the management rights section of the labor relations statute. Determinations of job assignment, production standards and crew sizes belong to management alone. The unions should be (and are) more concerned about new inroads to the labor relationship since "[t]he fear is that if codetermination gains a stronghold here, it may undermine the traditional local union strength and focus of American bargaining, that is, supplant local level union activity rather than supplement it."³⁴

A succinct expression of this fear is found in the title of a recent Washington Post article written by two union representatives -- "Cooperate, Hell: Unions Get What They Fight For."³⁵ The authors express more than just skepticism in their distain for cooperative ventures between employer and employee; nor are they merely harkening back to the good old days of Samuel Gompers and John L. Lewis. Theirs is a studied appreciation for the basic adversarial relationship which worked:

We are not advocating a rejectionist stance toward all forms of cooperation with management. Indeed, collective bargaining itself is a method, after a deal has been struck, of cooperation between labor and management. But labor-management cooperation cannot revive a labor movement sapped of its bargaining strength and organizing vigor. What unions need is a return to the basic principles that animated the early struggles of the American labor movement and the building of the CIO: class solidarity, industrial unionism, aggressive organizing, grass-roots coalitions, hard bargaining, tough striking, political independence and independence from management influence.³⁶

Drucker agrees with this sentiment. In keeping with his equation of union weakness equals management frustration, he offers:

Co-determination, everywhere, is a demand of union leaders rather than of the union members, a demand for power rather than for responsibility. It weakens management enterprise, and the economy altogether, and yet gives neither the enterprise, the employee, nor society what they need. It represents not so much union success as management failure.³⁷

There has been relatively little Federal sector discussion among labor relations practitioners -- labor, management, or neutral -- of employee participation efforts. One critical observer of the Federal scene believes that "[i]f civil servants were given the opportunity to participate in some of the management decisions affecting them, many of the management and labor relations problems would be reduced."³⁸ Another, keying more to the private sector unions' need to revitalize, states:

Union officials must similarly recognize the need to move from the antiquated adversarial labor-management model toward a more cooperative mode that acknowledges the symbiotic employer-employee relationship. Labor leaders should no longer be afraid to support reasonable managerial decisions that may not initially be popular with bargaining unit personnel. If both labor and management can learn to cooperate in relatively harmonious relationships -- but with union representatives still acting to protect the appropriate interests of working people -- there is no reason why labor organizations cannot continue to function as vital forces in the coming decades.³⁹

Some unions and agencies have gained notice by their fledging attempts to get something started (most notably, the Department of the Treasury and the National Treasury Employees Union). There have been isolated success stories, usually involving quality circles, in the Defense components, including Army. (Army depots seem to have a fairly good record with the quality circle program.) Some unions are much more open to joint labor-

management projects than others. The National Federation of Federal Employees is a good example of the former. It has even published a pamphlet on quality of worklife programs stressing "the need for an avenue to discuss these types of issues in a context separate from contract negotiations or the traditional, adversarial labor-management relationship."⁴⁰ The AFL-CIO has endorsed supplemental forms of union representation. In its February 1985 "state of the union" report, the AFL-CIO recognized that "unions find themselves behind the pace of change."⁴¹ It offered 28 recommendations for improvement; the first is that --

Unions should experiment with new approaches to represent workers and should address new issues of concern to workers. The diversity of approaches different unions have developed to meet the myriad of interests and desires of a diverse workforce in workplaces scattered throughout this country is an essential part of the genius of the American labor movement. The opinion data indicate that many workers, while supporting of the concept of organization, wish to forward their interests in ways other than what they view as the traditional form of union representation -- in their view, an adversarial collective bargaining relationship. . . .

. . . there is a particular insistence voiced by workers, union and non-union alike, to have a say in the 'how, why and wherefore' of their work. These needs and desires are being met in some cases by union-management programs affording greater worker participation in the decision-making process at the workplace. [Emphasis in original]⁴²

It would be unrealistic to expect the Federal unions to soften, much less give up entirely, their efforts to expand the scope of bargaining and to establish other basics found in the private sector. Certainly, neither the AFL-CIO nor NFFE is advocating an abandonment of the collective bargaining process. Along the same line, the agencies must try to preserve those unique features of the Federal sector program which enable us to accomplish the government's mission effectively and efficiently. But, we

must be willing to test the waters of different forms of the labor-management relationship where we find the local union willing to dip its toe in.

In 1966, the Army's senior labor relations officer was asked to predict what the Federal labor relations program would look like in 1976. Among the aspects that he saw was the unions'

. . . greater concern for the egoistic and self-actualization needs of the membership rather than their survival and security needs as in the past (i.e., we expect a rather substantial departure from bread-and-butter unionism.) More and more, management will find themselves being questioned on such sophisticated matters as operation of career programs, training and retraining, problems⁴³ of organizational structure and communication, etc.

Army commanders and managers should be alert to union initiatives aimed at labor-management cooperation beyond the traditional form. There is a clear distinction between "dual management" and employee participation which cannot be breached; we will continue to manage. But, we should take advantage of offers such as that proposed by one NFFE official for the union's "predecisional involvement" in critical management decisions such as major reductions in force or contracting out of functions.⁴⁴ The union's involvement up front in such matters may well result in no need for formal bargaining to which it is entitled. The "reason for being" for the unions is not to bargain per se but to enable employees to have a voice in the decisions that affect their work life. The Army leadership is easily capable of accommodating this.


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SELECTED BIBLIOGRAPHY

1. Adams, Roy J. "Should Works Councils Be Used as Industrial Relations Policy?" Monthly Labor Review, Vol. 108, No. 7, July 1985, pp. 25-29.
2. AFL-CIO Committee on the Evolution of Work. The Changing Situation of Workers and Their Unions. Publication No. 165. Washington: 1985.
3. Aldag, Ramon J. and Brief, Arthur P. Managing Organizational Behavior. St. Paul: West Publishing Co., 1981.
4. Applewhaite, Leon B. "Improving the Relationship From the Leadership Perspective of the Authority." Federal Service Labor Relations Review, Vol. 4, No. 1, 1981, pp. 2-6.
5. Atlas, Stephen L. "The Unions - Bright Forecast for Management." Management. Vol. 5, No. 2, 1985, pp. 11, 28.
6. Baicich, Paul J. and Compa, Lance. "Cooperate, Hell: Unions Get What They Fight For." Washington Post, 1 December 1985, p. C1.
7. Blaylock, Kenneth T. President, American Federation of Government Employees. Interview in Government Employee Relations Report, Vol. 23, No. 1126, 19 August 1985, pp. 1187-1192.
8. Brooks, Thomas R. Toil and Trouble. New York: Dell Publishing, 1971.
9. Bureau of National Affairs, The. Basic Patterns in Union Contracts. 10th ed. Washington: 1983.
10. Bureau of National Affairs, The. "Special Report: Unions Today." Government Employee Relations Report, Vol. 23, No. 1103, 4 March 1985, pp. 311-315.
11. Campbell, Edwin S. Jr. "Strategies for a New Ball Game: Agency Personnel Regulations and Collective Bargaining." Public Personnel Management, Vol. 13, No. 2, Summer 1984, pp. 185-189.
12. Cayer, N. Joseph. Managing Human Resources. New York: St. Martin's Press, 1980.
13. Conference Board, The. Union Membership. Economic Road Maps Nos. 1990-1991. New York: 1985.
14. Craver, Charles B. "The Current and Future Status of Labor Organizations." Labor Law Journal, Vol. 36, No. 4, April 1985, pp. 210-225.
15. Devine, Donald J. "The Challenge to Federal Employees Today." Labor Law Journal, Vol. 37, July 1981, pp. 387-394.
16. Drucker, Peter J. Management. New York: Harper & Row, 1974.

17. Drucker, Peter J. Managing in Turbulent Times. New York: Harper & Row, 1980.
18. Ferguson, Tracy H. and Gaal, John. "Codetermination: A Fad or a Future in America." Employee Relations Law Journal, Vol. 10, No. 2, Autumn 1984, pp. 176-199.
19. Freedman, Audrey. The New Look in Wage Policy and Employee Relations. Report No. 865. New York: The Conference Board, 1985.
20. Gleason, Penny. "Federal Sector Unions Face the '80s." Federal Service Labor Relations Review, Vol 4, No. 1, 1982, pp. 114-118.
21. Gordon, H. Steven. General Counsel, National Federation of Federal Employees. Personal Discussions. Washington: 20 September and 10 October 1985.
22. Green, David H. "The PATCO Imbroglgio: Issues for the Future." Federal Service Labor Relations Review, Vol. 4, No. 1, 1982, pp. 2-5.
23. Hanna, Chris. "Negotiating the Future." Government Employee Relations Report GERR RF 185. Washington: The Bureau of National Affairs, 1979.
24. Hart, Wilson R., Collective Bargaining in the Federal Civil Service. New York: Harper & Row, 1961.
25. Kreisberg, Steven. Deputy Director of Field Organizing and Support, National Federation of Federal Employee. Address to senior Army military and civilian managers at the Labor Relations for Executives course, Seoul, Korea, 22 October 1985.
26. Levine, Marvin J. and Hagburg, Eugene C. Labor Relations in the Public Sector. Salt Lake City: Brighton Publishing Co., 1979.
27. Levitan, Sar A. and Noden, Alexandra B. Working for the Sovereign. Baltimore: The Johns Hopkins University Press, 1983.
28. Levitan, Sar A. and Werneke, Diane. "Worker Participation and Productivity Change." Monthly Labor Review, Vol. 107, NO. 9, September 1984, pp. 28-33.
29. Lewandowski, James L. Vice President - Human Resources, Saturn Corp. Address to Symposium on Employee and Labor Relations, Lancaster, PA, 19 November 1985.
30. Loevi, F.J. Jr. Federal Sector Collective Bargaining: A Management Guide. Fort Washington, PA: Labor Relations Press, 1980.
31. Masters, Marick F. "Federal-Employee Unions and Political Action." Industrial & Labor Relations Review, Vol. 38, No. 4, July 1985, pp. 612-628.

32. McCart, John. "Federal Sector Labor Relations: Reflections and Projections." Federal Service Labor Relations Review, Vol. 3, No. 2, 1981, pp. 53-64.
33. Morris, Charles J. "New Techniques in Impasse Resolution in the Federal Sector." Federal Service Labor Relations Review, Vol. 3, No. 1, 1980, pp. 23-32.
34. Mulholland, John. Director, Field Services. American Federation of Government Employees. Personal Discussion. Washington: 2 October 1985.
35. Mulholland, John. "How CSRA Is Affecting Collective Bargaining." Federal Service Labor Relations Review, Vol. 4, No. 1, 1981, pp. 93-99.
36. Myers, M. Scott. Managing Without Unions. Reading, MA: Addison-Wesley, 1976.
37. National Federation of Federal Employees. NFFE's Guide to Quality of Worklife Programs. No. G-21. Washington: 1984.
38. "New Industrial Relations, The." Business Week, 11 May 1981, pp. 84-98.
39. Nigro, Felix A. and Nigro, Lloyd G. The New Public Personnel Administration. Itasca, IL: F.E. Peacock Publishers, 1981.
40. Northrup, Herbert R. "The Rise and Demise of PATCO." Industrial and Labor Relations Review, Vol. 37, No. 2, January 1984, pp. 171-184.
41. Practising Law Institute. Current Trends and Developments in Labor and Employee Relations Law. No. 199. New York: 1982.
42. Rehms, Charles M. "Public Employment Labor Relations in the 1980's." Federal Service Labor Relations Review, Vol. 3, No. 1, 1980, pp. 1-9.
43. Rosen, Howard. Servants of the People: The Uncertain Future of the Federal Civil Service. Salt Lake City: Olympus Publishing Co., 1985.
44. Roy, Robert H. The Cultures of Management. Baltimore: The Johns Hopkins University Press, 1977.
45. Samuelson, Robert J. "Labor's Bleak Outlook." Washington Post, 3 July 1985, p. G1.
46. Schrader, William J. "Information for Long-Range Planning Group." Internal HQDA memorandum, 9 March 1966.
47. Schroeder, Patricia. "Implementation of the Civil Service Reform Act - A Congressional View." Federal Service Labor Relations Review, Vol. 3, No. 1, 1980, pp. 70-75.

48. Schlossberg, Stephen I. Deputy Under Secretary of Labor for Labor-Management Relations and Cooperative Programs. Address to Symposium on Employee and Labor Relations, Lancaster, PA, 20 November 1985.
49. Singer, James W. "Federal Worker Unions: Labor's Stepchild." National Journal, No. 39, 30 September 1978, pp. 1547-1551.
50. Sulzner, George T. The Impact of Labor-Management Relations Upon Selected Federal Personnel Policies and Practices. US Office of Personnel Management Document 124-76-1. Washington: US Government Printing Office, 1979.
51. US Congress. House. Committee on Post Office and Civil Service. Legislative History of the Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978. Committee Print No. 96-7. 96th Cong., 1st sess. Washington: Government Printing Office, 1979.
52. US Department of the Army. Army Regulation 690-700, Chapter 711: Labor-Management Relations. Washington: 1 December 1985.
53. US Department of the Army. Administering the Labor Agreement. DA Pamphlet 690-30. Washington: 1980.
54. US Department of Defense. Civilian Personnel Manual, Chapter 711: Labor-Management Relations. Washington: 10 July 1981.
55. US General Accounting Office. Steps Can Be Taken To Improve Federal Labor-Management Relations and Reduce the Numbers and Costs of Unfair Labor Practice Charges. GAO/FPCD-83-5. Washington: 1984.
56. US Laws, Statutes, etc. United States Code. 1985 ed. Washington: Government Printing Office, 1985. Title 5, sec 7101 et seq.
57. US Office of Personnel Management. Analysis of Data and Report on Union Recognition in the Federal Sector. FPM Bulletin 711-95, 17 September 1985.

FOOTNOTES

1. Wilson Hart, Collective Bargaining in the Federal Civil Service, p. 76, citing Army Civilian Personnel Regulation E6.1-4b (1955).

2. US Laws, Statutes, etc., United States Code, 1985, Title 5, sec. 7101 et seq. (hereafter referred to as "5 USC 7101").

3. 5 USC 7113. Four unions have national consultation rights with the Department of the Army: the American Federation of Government Employees which represents 132,355 DA civilians; the National Federation of Federal Employees - 45,350; the National Association of Government Employees - 21,890; and the International Association of Machinists and Aerospace Workers - 8,487.

4. US Department of the Army, Army Regulation 690-700, Chapter 711, p. 2-1 (hereafter referred to as "AR 690-700, 711.2-3").

5. 5 USC §7106(a); these are referred to as "management rights" and must be retained by the agency in the collective bargaining process.

6. While the right of Federal employees to join unions was implicitly established by the Lloyd-LaFollette Act of 1912, there was no obligation on the part of the agencies to deal with unions until President Kennedy's Executive Order 10988 in 1962.

7. Steven Kreisberg, National Federation of Federal Employees, Seoul, Korea, 22 October 1985. NFFE is the second largest union in both the Army and government-wide and has, through the years, been the most insistent in asserting its national consultation rights with HQDA.

8. John McCart, "Federal Sector Labor Relations: Reflections and Projections," Federal Service Labor Relations Review, Vol. 3, No. 2, 1981, p. 64.

9. Robert H. Roy, The Cultures of Management, p. 67.

10. 5 USC §§7103(a)(4), 7116(b)(7), and 7120(f).

11. John Mulholland, "How CSRA Is Affecting Collective Bargaining," Federal Service Labor Relations Review, Vol. 4, No. 1, 1981, pp. 98-99.

12. US Office of Personnel Management, Analysis of Data and Report on Union Recognition in the Federal Sector, FPM Bulletin 711-95, pp. 10, 15, and 23.

13. Peter J. Drucker, Managing in Turbulent Times, p. 204

14. David H. Green, "The PATCO Imbroglia: Issues for the Future," Federal Service Labor Relations Review, Vol. 4, No. 1, 1982, pp. 4-5.

15. Penny Gleason, "Federal Sector Unions Face the '80s," Federal Service Labor Relations Review, Vol. 4, No. 1, 1982, pp. 114-115.

16. Herbert R. Northrup, "The Rise and Demise of PATCO," Industrial and Labor Relations Review, Vol. 37, No. 2, January 1984, p. 184.

17. Bureau of National Affairs, Basic Patterns in Union Contracts, p. 85.

18. Service Employees International Union, AFL-CIO, Local 556 and Department of the Army, US Army Support Command, Fort Shafter, Hawaii, 1 FLRA 562 (1979).

19. 5 USC §7102.

20. Roy, p. 68.

21. AR 690-700, 711.3-4(b)(9).

22. US Office of Personnel Management, ibid. There are 409 collective bargaining agreements in the Army which cover 91% of the employees in the bargaining units. Many of these are multi-unit agreements which define the terms and conditions for two or more units at the activity. For example, Fort Benning has six GS bargaining units under one contract; two WG units under another; and an NAF unit under a third. All 5,147 unionized employees in nine units are covered by one of the agreements.

23. 5 USC §7114(a)(1); the most common unfair labor practice for a Federal union to commit is a violation of "the duty of fair representation." See, for example, American Federation of Government Employees, Local 1778, AFL-CIO and Department of the Air Force, Headquarters, 438th Air Base Group (MAC), McGuire Air Force Base, 10 FLRA 346 (1982). In that case, the Federal Labor Relations Authority found that "by creating the impression that nonmembers seeking the Union's assistance might be denied representation if they did not agree to become members or to pay the expense of their representation, the [union] interfered with, restrained, and coerced nonmember employees in the exercise of their protected rights . . . to join or refrain from joining, freely and without fear of penalty or reprisal, the Respondent Union or any other labor organization." 10 FLRA 348.

24. Peter J. Drucker, The New Realities, pp. 175-176.

25. Robert J. Samuelson, "Labor's Bleak Outlook," Washington Post, 3 July 1985, p. G1.

26. 5 USC §7117.

27. Sar A. Levitan and Alexandra B. Noden, Working for the Sovereign, p. 100.

28. Statistics developed personally by the author.

29. Edwin S. Campbell, Jr., "Strategies for a New Ball Game: Agency Personnel Regulations and Collective Bargaining," Public Personnel Management, Vol. 13, No. 2, Summer 1984, p. 187.

30. Tracy H. Ferguson and John Gaal, "Codetermination: A Fad or a Future in America?," Employee Relations Law Journal, Vol. 10, No. 2, Autumn 1984, p. 181.
31. Ibid, p. 182.
32. Sar A. Levitan and Diane Werneke, "Worker Participation and Productivity Change," Monthly Labor Review, Vol. 107, No. 9, September 1984, p. 31.
33. Ibid, p. 32.
34. Ferguson and Gaal, p. 188.
35. Paul J. Baicich and Lance Compa, "Cooperate, Hell: Unions Get What They Fight For," Washington Post, 1 December 1985, p. C1.
36. Ibid, p. C2.
37. Drucker, Managing in Turbulent Times, p. 202-203.
38. Howard Rosen, Servants of the People: The Uncertain Future of the Federal Civil Service, p. 171.
39. Charles B. Craver, "The Current and Future Status of Labor Organizations," Labor Law Journal, April 1985, pp. 224-225.
40. National Federation of Federal Employees, NFFE's Guide to Quality of Worklife Programs, p. 4.
41. AFL-CIO Committee on the Evolution of Work, The Changing Situation of Workers and Their Unions, pp. 5.
42. Ibid, pp. 18-19.
43. William J. Schrader, "Information for Long-Range Planning Group," Internal HQDA memo, 9 March 1966, p. 2.
44. Kreisberg.

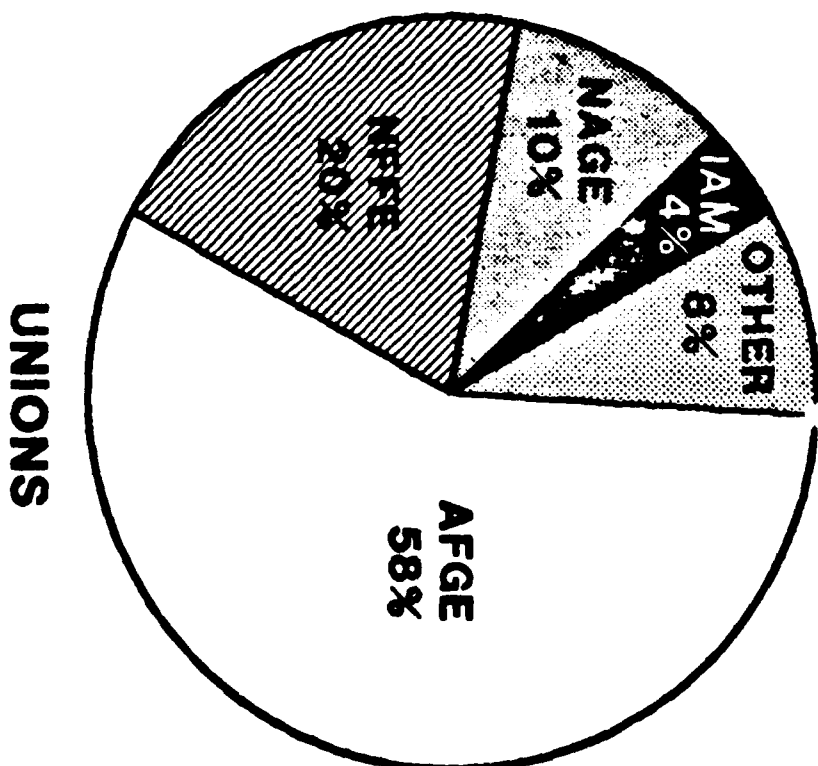
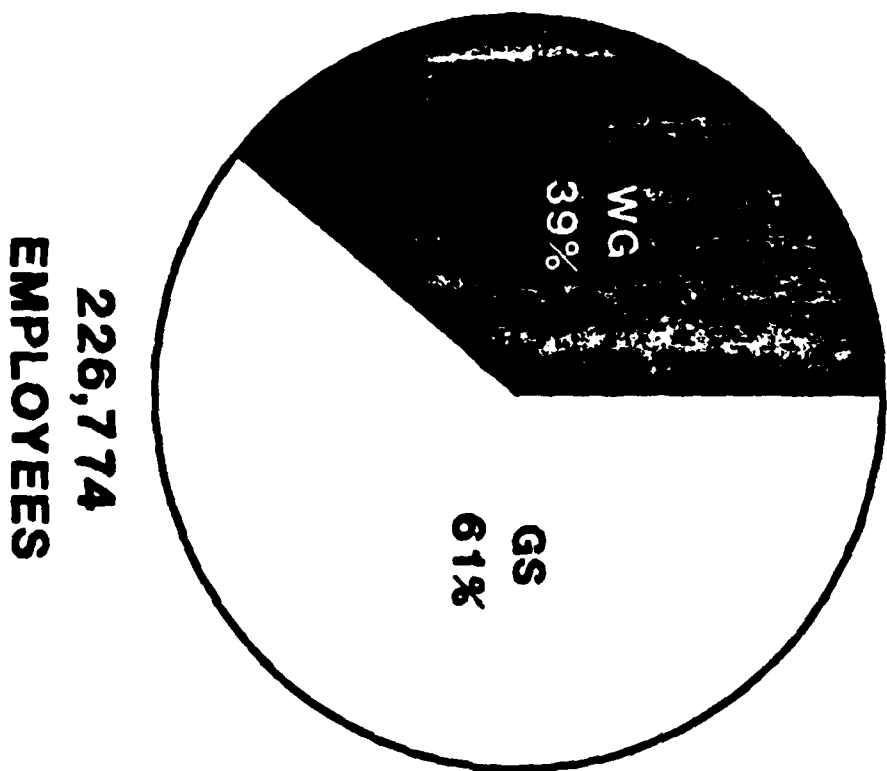
UNION RECOGNITION IN THE DEPARTMENT OF THE ARMY

| <u>Union</u> | <u>Employees Represented</u> | <u>Units</u> | <u>Agreements</u> |
|---|----------------------------------|--------------|-------------------|
| American Federation of Government Employees | 132,355 | 309 | 195 |
| National Federation of Federal Employees | 45,350 | 110 | 82 |
| National Association of Government Employees | 21,890 | 55 | 41 |
| Int'l Assoc of Machinists & Aerospace Workers | 8,487 | 32 | 14 |
| Maritime/Metal Trades Council | 7,425 | 2 | 2 |
| Metal Trades Council | 2,355 | 3 | 3 |
| Services Employees International Union | 2,303 | 5 | 5 |
| Laborers Int'l Union of North America | 770 | 5 | 4 |
| Int'l Brotherhood of Electrical Workers | 736 | 8 | 8 |
| National Maritime Union | 734 | 10 | 9 |
| Int'l Association of Fire Fighters | 592 | 20 | 20 |
| Int'l Brotherhood of Teamsters | 558 | 1 | 1 |
| Pacific NW Prevailing Rates Employees Assoc | 525 | 1 | 1 |
| Marine Engineers Beneficial Association | 369 | 3 | 3 |
| Masters, Mates and Pilots | 350 | 2 | 1 |
| Hotel Restaurant Employees & Bartenders | 330 | 1 | - |
| United Assoc of Plumbers & Pipe Fitters | 288 | 3 | 3 |
| National Education Association | 245 | 1 | 1 |
| Fort Knox Teachers Association | 240 | 1 | 1 |
| Fire Fighters Association | 161 | 5 | 3 |
| Congresso de Uniones Ind de Puerto Rico | 145 | 1 | 1 |
| Int'l Chemical Workers Union | 142 | 1 | 1 |
| Office & Professional Employees Int'l Union | 135 | 2 | 2 |
| Int'l Brotherhood of Police Officers | 119 | 2 | 2 |
| Fraternal Order of Police | 55 | 1 | 1 |
| West Point Elementary School Teachers Assoc | 53 | 1 | 1 |
| Int'l Association of Tool Craftsmen | 32 | 1 | 1 |
| Int'l Brotherhood of Firemen and Oilers | 30 | 1 | 1 |
| | <u>226,774</u> | <u>589</u> | <u>409*</u> |
| Appropriated Fund Employees: | 215,128 | 540 | 367 |
| Nonappropriated Fund Employees: | 11,646 | 49 | 42 |

*Approximately 91% of employees are covered by collective bargaining agreements.

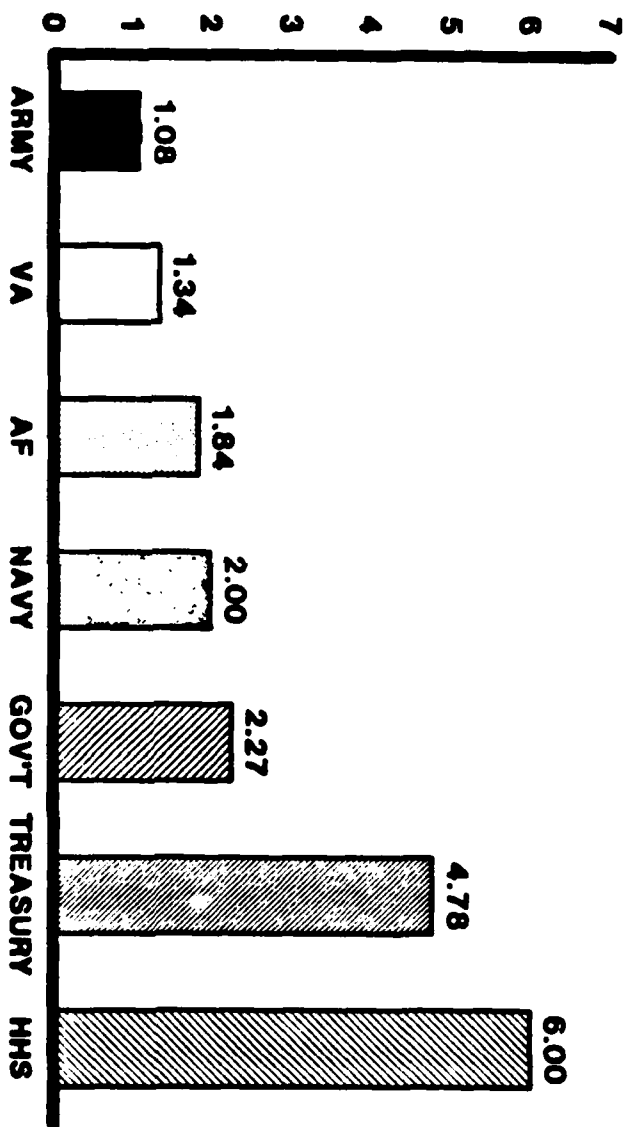
As of January 1985

UNION REPRESENTATION IN THE ARMY



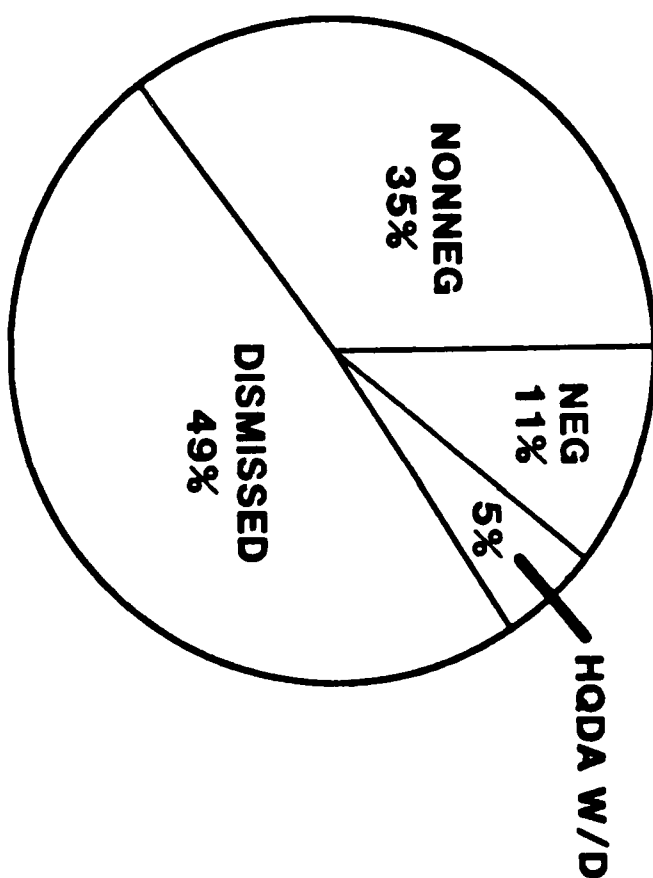
ULP COMPLAINTS

PER 1000 EMPLOYEES



Among the six largest agencies, the Department of the Army has the lowest unfair labor practice (ULP) complaint ratio per employee, 1.08/1000. The government-wide ratio is 4.78 complaints/1000 employees. The Veterans Administration is next best, followed by the Air Force, the Navy, Treasury, and Health and Human Services.

DISPUTED PROPOSALS THRU FY85



The following disposition was made of 598 disputed union proposals in the Department of the Army by the Federal Labor Relations Authority:

| | |
|--|-------------|
| Negotiable: | 63 (10.5%) |
| Activity allegation of nonnegotiability withdrawn by HQDA: | 28 (4.7%) |
| Nonnegotiable: | 212 (35.5%) |
| Dismissed by FLRA: | 295 (49.3%) |

END

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